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DONALD THORN

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SANTA ROSA DIVISION**

In re: Case No.: 13-10923-AJ-7

Javier Augusto and Heidi Erica Alvarez A.P. No.: 13-01103

Debtors./

Donald Thorn

Plaintiff,

v.

Javier Augusto and Heidi Erica Alvarez

Defendants./

**OBJECTIONS TO THE DECLARATION
OF BYRON T. NELSON IN SUPPORT OF
DEFENDANTS' OPPOSITION TO
PLAINTIFF DONALD THORN'S
MOTION FOR SUMMARY JUDGMENT
AND ALL EXHIBITS THERETO**

Date: April 4, 2014

Time: 9:00 a.m.

**Place: 99 South E Street
Santa Rosa, California**

A.P. Filed: August 6, 2013

Trial Date: September 17, 2014

Judge: Alan Jaroslovsky

Plaintiff Donald Thorn objects to the March 17, 2014 declaration of Byron T. Nelson and all exhibits attached thereto in opposition to his motion for summary judgment set for hearing on April 4, 2014 on the following grounds:

1. The declaration and all exhibits are barred by judicial estoppel per the June 8, 2012 judgment and the October 10, 2012 amended judgment awarding attorney's fees in favor of

1 Plaintiff Donald Thorn and against defendants Javier Augusto Alvarez and Heidi Erica Alvarez
2 under California Civil Code § 3426.4 in Sonoma County Superior Court case number SCV-
3 246852. (See In re Lopez (2007) 367 B.R. 99)
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5 The issue in this adversary proceeding as well as the motion for summary judgment is
6 whether or not these two judgments stated above have judicial estoppel effect.

7 Date: March 20, 2014

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11 Edward McCutchan
12 Attorneys for Plaintiff and Judgment Creditor
13 DONALD THORN
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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF SONOMA

I am employed in the County of Sonoma, State of California. I am over the age of 18 and not a party to the within action; my present address is: 412 Aviation Boulevard, Suite D, Santa Rosa, California 95403.

On March 24, 2014, I served the foregoing document described as **OBJECTIONS TO THE DECLARATION OF BYRON T. NELSON IN SUPPORT OF DEFENDANTS' OPPOSITION TO PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT AND ALL EXHIBITS THERETO** on the parties by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

SEE ATTACHED SERVICE LIST


XX By Regular U.S. Mail. The documents were placed for collection and mailing following ordinary business practice for deposit in the United States Postal Service in a sealed envelope with postage thereon fully prepaid, addressed as stated above.

___ By personal service. I caused each such envelope to be delivered by hand to the addressee(s) as stated above.

___ By facsimile transmitted from (707) 284-5527. The document transmission was reported as complete and without error.

___ By email or electronic transmission. I caused the document to be sent to the persons at the email addresses listed below. I did not receive within a reasonable time after the transmission any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on March 24, 2014, at Santa Rosa, California.


Kathleen M. Dahl

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